

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

DATABASE RECORDS MANAGEMENT,
LLC,

Plaintiff,

v.

EMC CORPORATION, OPEN TEXT U.S.A.
INC., VIGNETTE CORPORATION,
INTERNATIONAL BUSINESS MACHINES
CORPORATION, JM FAMILY
ENTERPRISES, INC. and SKECHERS U.S.A.,
INC.,

Defendants.

Case No. 09-cv-184

PATENT CASE

JURY TRIAL DEMANDED

COMPLAINT

Database Records Management LLC ("Plaintiff") files this Complaint against EMC Corporation, Open Text U.S.A. Inc., Vignette Corporation, International Business Machines Corporation, JM Family Enterprises, Inc. and Skechers U.S.A., Inc. ("Defendants") for infringement of United States Patent No. 6,973,456 (hereinafter "the '456 patent"). A copy of the '456 patent is attached hereto as Exhibit A.

JURISDICTION AND VENUE

1. This is an action for patent infringement under title 35 of the United States code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Venue is proper under 28 U.S.C. §§ 1391(d) and 1400(b).

4. Plaintiff is a Delaware limited liability company with its principle place of business at 500 Newport Center Drive, 7th Floor, Newport Beach, CA 92660.

5. Defendant EMC Corporation (“EMC”) is a Massachusetts corporation with its principle place of business at 176 South Street, Hopkinton, Massachusetts 01748. On information and belief, EMC does business throughout the United States, including within this judicial district.

6. Defendant Open Text U.S.A. Inc. (“Open Text”) is a Delaware corporation with its principle place of business at 100 Tri-State International Parkway, Third Floor, Lincolnshire, Illinois 60069. On information and belief, Open Text does business throughout the United States, including within this judicial district.

7. Defendant Vignette Corporation (“Vignette”) is a Delaware corporation with its principle place of business at 1301 South MoPac Expressway, Suite 100, Austin, Texas 78746. On information and belief, Vignette does business throughout the United States, including within this judicial district.

8. Defendant International Business Machines Corporation (“IBM”) is a New York corporation with its principle place of business at New Orchard Rd., Armonk, New York 10504. On information and belief, IBM does business throughout the United States, including within this juridical district.

9. Defendant JM Family Enterprises, Inc. (“JM”) is a Delaware corporation with its principle place of business at 100 Jim Moran Blvd, Deerfield Beach, Florida 33442. On information and belief, JM does business throughout the United States, including within this juridical district.

10. Defendant Skechers U.S.A., Inc. (“Skechers”) is a Delaware corporation with its principle place of business at 228 Manhattan Beach Blvd., Manhattan Beach, California 90266.

On information and belief, Skechers does business throughout the United States, including within this juridical district.

11. On information and belief, Defendants' products that are alleged herein to infringe are made, used, imported, offered for sale and/or sold in the Western District of Wisconsin.

12. This Court has personal jurisdiction over Defendants because Defendants have committed acts of infringement in this district; do business in this district; and/or have systematic and continuous contacts in this district.

INFRINGEMENT OF U.S. PATENT 6,973,456

13. Plaintiff incorporates paragraphs 1 through 12 herein by reference.

14. This cause of action arises under the patent laws of the United States, and in particular Title 35 of the United States Code.

15. Plaintiff is the exclusive licensee of the '456 patent, entitled "Database System and Method for Organizing and Sharing Information," with rights to enforce the '456 patent and sue infringers

16. The '456 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

17. On information and belief, EMC is infringing, inducing others to infringe and/or contributorily infringing, in the United States and this District, at least one claim of the '456 patent. Such infringing activities by EMC include making, using, importing, selling and/or offering to sell products including, but not limited to, products that are sold under the names EMC Documentum, Documentum Records Manager and Documentum Physical Record Service. These acts are without right, license or permission from Plaintiff.

18. EMC's actions as described herein constitute infringement of at least one claim of the '456 patent in violation of 35 U.S.C. §§ 271, 281-285.

19. On information and belief, Open Text is infringing, inducing others to infringe and/or contributorily infringing, in the United States and this District, at least one claim of the '456 patent. Such infringing activities by Open Text include making, using, importing, selling and/or offering to sell products including, but not limited to, products that sold under the name LiveLink ECM Records Management. These acts are without right, license or permission from Plaintiff.

20. Open Text's actions as described herein constitute infringement of at least one claim of the '456 patent in violation of 35 U.S.C. §§ 271, 281-285.

21. On information and belief, Vignette is infringing, inducing others to infringe and/or contributorily infringing, in the United States and this District, at least one claim of the '456 patent. Such infringing activities by Vignette include making, using, importing, selling and/or offering to sell products including, but not limited to, products that are sold under the name Vignette Records Manager and those products that incorporate Vignette Records Manager. These acts are without right, license or permission from Plaintiff.

22. Vignette's actions as described herein constitute infringement of at least one claim of the '456 patent in violation of 35 U.S.C. §§ 271, 281-285.

23. On information and belief, IBM is infringing, inducing others to infringe and/or contributorily infringing, in the United States and this District, at least one claim of the '456 patent. Such infringing activities by IBM include making, using, importing, selling and/or offering to sell products including, but not limited to, products that are sold under the names FileNet Records Manager. These acts are without right, license or permission from Plaintiff.

24. IBM's actions as described herein constitute infringement of at least one claim of the '456 patent in violation of 35 U.S.C. §§ 271, 281-285.

25. On information and belief, JM is infringing, inducing others to infringe and/or contributorily infringing, in the United States and this District, at least one claim of the '456 patent. Such infringing activities by JM include making, using, importing, selling and/or offering to sell products including, but not limited to, products that are sold under the names FileNet Records Manager. These acts are without right, license or permission from Plaintiff.

26. JM's actions as described herein constitute infringement of at least one claim of the '456 patent in violation of 35 U.S.C. §§ 271, 281-285.

27. On information and belief, Skechers is infringing, inducing others to infringe and/or contributorily infringing, in the United States and this District, at least one claim of the '456 patent. Such infringing activities by Skechers include making, using, importing, selling and/or offering to sell products including, but not limited to, products that are sold under the names FileNet Records Manager. These acts are without right, license or permission from Plaintiff.

28. Skecher's actions as described herein constitute infringement of at least one claim of the '456 patent in violation of 35 U.S.C. §§ 271, 281-285.

29. On information and belief, Defendants contributorily infringed and continue to contributorily infringe one or more claims of the '456 patent, pursuant to 35 U.S.C. § 271, in the United States, including in this judicial district.

30. On information and belief, Defendants have induced others to infringe and continue to induce others to infringe one or more claims of the '456 patent, pursuant to 35 U.S.C. § 271, in the United States, including in this judicial district.

31. This case is exceptional pursuant to the provisions of 35 U.S.C. § 285.

32. Plaintiff has complied with 35 U.S.C. § 287.

33. Defendants' actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendants are enjoined and restrained by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

A. Enter judgment for Plaintiff on this complaint;

B. Enjoin Defendants, their agents, officers, servants, employees, attorneys and all persons in active concert or participation with Defendants who receive notice of the order from further infringement of United States Patent No. 6,973,456;

C. Award Plaintiff damages resulting from Defendants' infringement in accordance with 35 U.S.C. § 284;

D. Treble the damages in accordance with the provisions of 35 U.S.C. § 284;

E. Find the case to be exceptional under the provisions of 35 U.S.C. § 285;

F. Award Plaintiff reasonable attorney fees under 35 U.S.C. § 285;

G. Order the impounding and destruction of all Defendants' products that infringe the '456 Patent;

H. Award Plaintiff interest including, but not limited to, prejudgment and post judgment interest, and costs; and

I. Award Plaintiff such further relief to which the Courts finds Plaintiff entitled under law or equity.

Respectfully submitted,

THE SIMON LAW FIRM, PC

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